IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 24/09/2003

Coram

The Honourable Mr. Justice P.K. MISRA

Writ Petition No.20559 of 2002

T.P. Kabbilawsh, Minor
represented by his father &
natural Guardian,
Mr. P.N. Peruvazhuthi .. Petitioner

-Vs-

1. Union of India
Represented by
Secretary to Government of
India, Ministry of Defence,
New Delhi - 1.

2. The Chairman,
Local Board of Administration
for Military schools,
represented by the
Sub-Area Commander of
Karnataka, Kerala and Goa
Army Headquarters,
New Delhi.

3. The Principal,
Military School,
Museum Road,
Post Box No.2500,
Bangalore - 560025.

4. The Officer in Charge,
Testing Team,
HQ. ATNKK & G Area,
Chennai. .. Respondents

Writ Petition filed under Article 226 of the Constitution of
India for the issue of a Writ of Certiorarified Mandamus as stated therein.

For petitioner: Mr. Chinnasamy

For respondents: Mr. M. Rathinam
ACGSC

:O R D E R

Heard the learned counsel appearing for the parties.
2. In this writ petition, the petitioner has prayed for quashing the records relating to "204/Policy/XV/A on 1.11.2001 issued by the third respondent and the test conducted on 27.12.2001 for VI Standard admission in the Military School, and further to direct the first respondent to allot a seat to the petitioner's son in the third respondent's institution for the year 2002-2003.

3. By an interim direction by this Court, the first respondent was directed to consider the question of selection of the petitioner's son. By way of an additional affidavit, it has been indicated that even though the petitioner's son was considered on merit, he was not selected. Since the admission to Class VI for the year in question is over and the academic year is also over, in normal course, the question raised in the writ petition does not survive for consideration. However, the learned counsel for the petitioner submits that, since such question is cropping up almost every year and the question of admission in future year also to be agitated by the present petitioner, the writ petition should be disposed of on merits.

4. The first respondent has established five Schools in different parts of the country. As per the policy decision, 67% of the admission in such Schools is reserved for entitled category, this is to say that the children of JCO/OR and other equivalent officers and the balance 33% come under the non-entitled category, out of which 20% is reserved for the children of service officers and 13% being reserved for the children of civilians.

5. Learned counsel appearing for the petitioner contends that as per the decision of the Honourable Supreme Court, reservation in excess of 50% must be held to be invalid. This contention, even though, attractive on the face of it, is not worthy of acceptance. Initially, the Schools had been established for the purpose of giving admission to the children of employees employed under the defence services and subsequently 13% has been reserved for the ci vilians. The obvious intention is to facilitate education to the children of the defence personnels who were serving the nation in a sensitive sphere viz., defence services. As such, it can be said that they formed separate class, for whom special provisions can be made. The question of exceeding 50% of reservation category as envisaged by the Hon'ble Supreme Court while dealing with the matters relating to reservation under Article 15 & 16 would not be relevant for the aforesaid purpose. What is relevant is to say that the objective of the provision is to ensure convenient admission to the children belonging to employees of defence services. By applying the principle of Article 14, such special rule can be said to be valid and reasonable.

6. The learned counsel for the petitioner relying on some paragraphs in the counter affidavit filed by the respondents submitted that, in the counter affidavit it was indicated that cut off mark for the students

belonging to other category was about 80, since the son of the petitioner has obtained 88, he should have been admitted.

7. On verification of the records produced by the counsel for the respondents, I do not find any merit in such submission. The records indicate that the marks obtained by the student who got last admission was 115 whereas the petitioner's son had secured only 88, which was far less than that the marks obtained by those who had been kept in the waiting list. The submission of the counsel for the petitioner that, as a matter of fact, no civilians had been admitted also appears to be baseless as the list produced by the respondents indicate that several students belonging to civilians category had been admitted.

7. For the aforesaid reasons, I do not find any merit in this writ petition which is accordingly dismissed. No costs.

Index: Yes
Internet: Yes

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To
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India, Union of India,
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